IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Application

Inventors: Shabbir A. Khakoo et al.

Serial No.: 10/672636

Conf. No.: 8093

Filing Date: 09/26/2003

Art Unit: 2456

Examiner: Bates, Kevin T

Docket No.: 633-040US

Title: Method and Apparatus for Delivering an Electronic Mail Message with an Indication of the Presence of the Sender

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

PRE-APPEAL-BRIEF REQUEST FOR REVIEW

The applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

Respectfully,
Shabbir A. Khakoo et al.

By **/David M. Lazoff/**
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Dear Sir:

PRE-APPEAL-BRIEF REMARKS

Claims 1-3, 5-13, 19-21, and 23-25 are pending, have been finally rejected, and are being appealed.

Independent claims 1 and 19 were rejected under 35 U.S.C. 103 as being unpatentable over B. Appelman, World Application 03/098425 (hereinafter "Appelman") in view of S. M. Armstrong et al., U.S. Patent 6,807,423 (hereinafter "Armstrong").

The applicant respectfully submits that the remarks filed on 22 July 2010 distinguishing the claims from the cited references are correct and that the Final Rejection is incorrect.

The applicant's arguments are summarized here for the reader's convenience.

35 U.S.C. 103 Rejection of Independent Claims 1 and 19

Independent claims 1 and 19 were rejected under 35 U.S.C. 103(a) as being unpatentable over B. Appelman, World Application 03/098425 (hereinafter "Appelman") in view of S. M. Armstrong et al., U.S. Patent 6,807,423 (hereinafter "Armstrong"). The applicants respectfully traverse the rejection.

Claim 1 recites:

> 1. A method comprising:
>
> receiving an email message from a sender;
>
> obtaining a presence status of the sender from a presence server, wherein the presence status indicates a presence status of the sender across plurality of domains;
>
> delivering the email message to a recipient with an indication of a presence of the sender on one or more of the domains; and
>
> wherein the presence server determines the presence status of the sender *based on a rule that aggregates at least two items of presence information that are conflicting with each other*.
>
> (*emphasis supplied*)

Neither Appelman nor Armstrong, alone or in combination, teach or suggest what claim 1 recites — namely, an arrangement where the presence server determines the presence status of the sender based on a rule that aggregates at least two items of presence information that are conflicting with each other.

The Office has already acknowledged that Appelman does not teach or suggest the limitation "wherein the presence server determines the presence status of the sender based on a rule that aggregates at least two items of presence information that are conflicting with each other", changing its 102 rejection to a 103 rejection and adding new reference Armstrong.

The applicants respectfully submit that Armstrong also does not teach or suggest this feature. The applicants acknowledge that in the passages cited by the Office (Col. 4, line 49 – Col. 5, line 9; Col. 6 lines 48-61; Col. 7, lines 4-19) Armstrong does teach aggregating multiple presence information items into a single point of presence. For example, in accordance with Armstrong, there might be:

- a first item that indicates that a a particular user is connected to a first network via a first device (for example, a CDMA network via a cell phone);
- a second item that indicates that the user is also connected to a second network via a second device (for example, a Wi-Fi network via an Apple iPad®); and
- a third item that indicates that the user should preferably be contacted via the first device;

and Armstrong will in fact aggregate these items into a single *point of presence*. The applicants respectfully submit that such aggregation is well-known in the prior art.

However, nowhere does Armstrong — in the cited passages or elsewhere — teach or suggest *how to determine the presence status of a user when multiple items of presence information conflict with each other*. For example, consider the following items of presence information:

- a first item that indicates that a a particular user is connected to a network via a device (for example, a CDMA network via a cell phone);
- a second item that, based on the user's Microsoft Outlook® calendar, indicates that the user is currently available for a call; and
- a third item that, based on the user's on-line Google® calendar, indicates that the user is not currently available for a call (*e.g.*, the Google® calendar indicates that the user is currently in a meeting, *etc.*).

In the foregoing example, the second item and third item conflict with each other. In the present invention, as recited in claim 1, the presence server consults an appropriate rule in a rule base to resolve this conflict and determine the presence status of the user.

Armstrong, in contrast, mentions nothing about multiple items of presence information that conflict with each other — let alone how to resolve the conflict and determine a user's presence status.

For this reason, the applicants respectfully submit that claim 1 is allowable over the combination of Appelman and Armstrong, and that the rejection is traversed.

Claim 19 recites:

> **19.** An apparatus comprising:
>
> a memory; and
>
> at least one processor, coupled to the memory, operative to:
>
> receive an email message from a sender;
>
> obtain a presence status of the sender from a presence server, wherein the presence status indicates a presence status of the sender across a plurality of domains;
>
> deliver the email message to a recipient with an indication of a presence of the sender on one or more of the plurality of domains; and
>
> wherein the presence server determines the presence status of the sender *based on a rule that aggregates at least two items of presence information that are conflicting with each other*.
>
> (*emphasis supplied*)

For the same reasons as for claim 1, the applicants respectfully submit that the rejection of claim 19 is traversed.

Respectfully,
Shabbir A. Khakoo et al.

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